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General Information Concerning

TRADE-MARKS

A brief introduction to Trademark matters including:

- definition and functions of Trademarks
- what applicants must do

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

C21.26:

Copyrights

Some persons occasionally confuse patents, copyrights, and trademarks. Although there may be some resemblance in the rights of these three kinds of intangible property, they are completely different and serve different purposes.

Copyrights protect the writings of an author against copying. Literary, dramatic, musical and artistic works are included within the protection of the copyright law, which in some instances also confers performing and recording rights. The copyright goes to the form of expression rather than to the subject matter of the writing. A description of a machine could be copyrighted as a writing, but this would only prevent others from copying the description--it would not prevent others from writing a description of their own or from making and using the machine. Copyrights are registered in the Copyright Office in the Library of Congress and the Patent and Trademark Office has nothing whatever to do with copyrights. **Information concerning copyrights may be obtained by addressing: Register of Copyrights, Library of Congress, Washington, D.C. 20540.**

General
Information
Concerning

TRADE-MARKS

U.S. DEPARTMENT
OF COMMERCE

Malcolm Baldrige
Secretary

PATENT AND TRADEMARK OFFICE
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Assistant Secretary and Commissioner
of Patents and Trademarks

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Trademarks
Statutes and Rules

This pamphlet is intended to serve only as a general guide in regard to trademark matters in the Patent and Trademark Office.

Applications for registration of trademarks must conform to the requirements of the Trademark Act of 1946, as amended, and the Trademark Rules of Practice. This Act, Public Law 489, Seventy-ninth Congress, Chapter 540, 60 Stat. 427, popularly known as the Lanham Act, and forming Chapter 22, Title 15 of the U.S. Code, became effective July 5, 1947, superseding the Trademark Acts of 1905 and 1920. The trademark rules form Part 2 of Title 37 of the Code of Federal Regulations. Copies of trademark publications can be purchased from the Government Printing Office as indicated at the end of this pamphlet.

Definition and Functions of Trademarks

Definition of Trademarks. A "trademark," as defined in section 45 of the 1946 Act, "includes any word, name, symbol, or device, or any combination thereof adopted and used by a manufacturer or merchant to identify his goods and distinguish them from those manufactured or sold by others."

Function of Trademarks. The primary function of a trademark is to indicate origin. However, trademarks also serve to guarantee the quality of the goods bearing the mark and, through advertising, serve to create and maintain a demand for the product. Rights in a trademark are acquired only by use and the use must ordinarily continue if the rights so acquired are to be preserved. Registration of a trademark in the Patent and Trademark Office does not in itself create or establish any exclusive rights, but is recognition by the Government of the right of the owner to use the mark in commerce to distinguish his goods from those of others.

Mark Must Be Used in Commerce. In order to be eligible for registration, a mark must be in use in commerce which may lawfully be regulated by Congress, for example, interstate commerce, at the time the application is filed. "Use in commerce" is defined in section 45 as follows:

> For the purposes of this Act a mark shall be deemed to be used in commerce (a) on goods when it is placed in any manner on the goods or their containers or the displays assocated therewith or on the tags or labels affixed thereto and the

goods are sold or transported in commerce and (b) on services when it is used or displayed in the sale or advertising of services and the services are rendered in commerce, or the services are rendered in more than one State or in this and a foreign country and the person rendering the services is engaged in commerce in connection therewith.

Trade and Commercial Names. Trademarks differ fom trade and commercial names which are used by manufacturers, industrialists, merchants, agriculturists, and others to identify their businesses, vocations or occupations, or the names or titles lawfully adopted by persons, firms, associations, companies, unions and other organizations. The latter are not subject to registration unless actually used as trademarks.

Registration of Trademarks

Marks Not Subject to Registration. A trademark cannot be registered if it—

(a) Consists of or comprises immoral, deceptive, or scandalous matter or matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt or disrepute.

(b) Consists of or comprises the flag or coat of arms or other insignia of the United States, or of any State or municipality, or of any foreign nation, or any simulation thereof.

(c) Consists of or comprises a name, portrait, or signature identifying a particular living individual except by his written consent, or the name, signature, or portrait of a deceased President of the United States during the life of his widow, if any, except by the written consent of the widow.

(d) Consists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office or a mark or trade name previously used in the United States by another and not abandoned, as to be likely when applied to the goods of another person, to cause confusion, or to cause mistake, or to deceive.

Principal and Supplemental Register Marks. The Trademark Act of 1946 provides for the establishment of two registers, designated as the Principal Register and the Supplemental Register. Coined, arbitrary, fanciful, or suggestive marks, generally referred to as "technical marks," may, if otherwise qualified, be registered on the Principal Register. Marks not qualified for registration on the principal register but which, nevertheless, are capable of distinguishing applicant's goods and have been in lawful use in commerce for at least one year, may be registered on the Supplemental Register.

Registrable Marks—Principal Register. A trademark, if otherwise eligible, may be registered on the Principal Register

unless it consists of a mark which, (1) when applied to the goods/services of the applicant is merely descriptive or deceptively misdescriptive of them, or (2) when applied to the goods/services of the applicant is primarily geographically descriptive or deceptively misdescriptive of them, except as indications of regional origin, or (3) is primarily merely a surname.

Such marks, however, may be registered on the Principal Register, provided they have become distinctive as applied to the applicant's goods in commerce. The Commissioner may accept as prima facie evidence that the mark has become distinctive as applied to applicant's goods/services in commerce, proof of substantially exclusive and continuous use thereof as a mark by the applicant in commerce for the 5 years next preceding the date of filing of the application for registration.

Registrable Marks—Supplemental Register. All marks capable of distinguishing applicant's goods and not registrable on the Principal Register, which have been in lawful use in commerce for the year preceding the filing of the application for registration, may be registered on the Supplemental Register. For the purpose of registration on the Supplemental Register a mark may consist of any trademark, symbol, label, package, configuration of goods, name, word, slogan, phrase, surname, geographical name, numeral, or device, or any combination of any of the foregoing.

Application for Registration

The application for registration must be filed in the name of the owner of the mark. The owner may file and prosecute his own application for registration, or he may be represented by an attorney or other person authorized to practice in trademark cases. The Patent and Trademark Office cannot aid in the selection of an attorney or other person. Application forms for corporations, individuals, and firms are attached (see Centerfold).

Parts Comprising an Application. An application comprises:

(a) A written application (see pp. 4 to 9);

(b) A drawing of the mark (see p. 9);

(c) Five specimens or facsimiles (see p. 11);

(d) The required filing fee (see p. 18).

Compliance With Other Laws. When the sale or transportation of any product for which registration of a trademark is sought is regulated under an Act of Congress, the Office may, before allowance, make appropriate inquiry as to compliance with such act for the sole purpose of determining lawfulness of the commerce recited in the application.

THE WRITTEN APPLICATION

The written application must be in the English language and plainly written on but one side of the paper. Legal size paper, typewritten double spaced, with at least a 1 1/2-inch margin on the left-hand side and top of the pages is deemed preferable.

Requirement for Application. The application shall include a request for registration and must specify:

(i) The name of the applicant.

(ii) The citizenship of the applicant; if the applicant is a partnership, the names and citizenship of the general partners or, if the applicant is a corporation or association, the state or nation under the laws of which organized;

(iii) The domicile and post office address of the applicant;

(iv) That the applicant has adopted and is using the mark shown in the accompanying drawing;

(v) The particular goods on or in connection with which the mark is used;

(vi) The class of merchandise according to the official classification if known to the applicant. The official classification of goods and services appears on page 6;

(vii) The date of applicant's first use of the mark as a trademark on or in connection with goods specified in the application;

(viii) The date of applicant's first use of the mark as a trademark on or in connection with goods specified in the application in commerce which may lawfully be regulated by Congress, specifying the nature of such commerce;

(ix) The mode or manner in which the mark is used on or in connection with the particular goods specified.

If more than one item of goods is specified in the application, the dates of use required in paragraphs (vii) and (viii) of this section need be for only one of the items specified, provided the particular item to which the dates apply is designated. In combined applications, dates of use for each class are required.

The word "commerce" as used throughout this pamphlet means commerce which lawfully may be regulated by Congress as specified in Section 45 of the Trademark Act. The application must also include averments to the effect that the applicant or other person making the verification believes himself or the firm, corporation, or association in whose behalf he makes the verification, to be the owner of the mark sought to be registered; that the mark is in use in commerce specifying the nature of such commerce; that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use such mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; and that the facts set forth in the application are true.

Signature and Verification. The application must be signed and verified (sworn to) or include a declaration by the applicant or by a member of the firm or an officer of the corporation or association applying.

Use by Related Company. If the mark sought to be registered is not in fact being used by the applicant but is being used by one or more related companies whose use inures to the benefit of the applicant under section 5 of the Trademark Act, such facts must be indicated in the application.

Principal Register. All applications will be treated as requesting registration on the Principal Register unless otherwise stated in the application.

Supplemental Register. An application for registration on the Supplemental Register shall so indicate and shall specify that the mark has been in continuous use in commerce, specifying the nature of such commerce, by the applicant for the preceding year, if the application is based on such use.

Foreign Applicant. If the applicant is not domiciled in the United States he must designate by a written document filed in the Patent and Trademark Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark and to whom all official communications will be addressed unless the applicant is represented by an attorney or other authorized person. If this document does not accompany or form part of the application, it will be required and registration refused unless it is supplied.

A foreign applicant using a mark in commerce which may lawfully be regulated by congress may apply for registration in the same manner as residents of the United States.

If the mark is not being used in commerce with the United States, the application may be based upon a registration which the applicant has previously secured in his country of origin, and which is in full force and effect. The application, however, must be accompanied by a certification or certificate of the trademark office of the foreign country showing that the mark has been registered in that country. The U.S. application may also be based upon an application for registration filed in the applicant's country of origin not more than six months prior to the filing date of the application in this country, but registration will not be granted until the application filed in the country of origin has matured into a registration. In either case foreign applicants must conform to the same requirements as other applicants except that the following need not be submitted:

(1) Specimens or facsimiles;
(2) The date of first use or the date of first use in commerce;
(3) The mode or manner in which the mark is used on or in connection with the particular goods or services.

Classification. An application in which a single fee is submitted must be limited to the goods or to the services comprised in a single class. An application may be filed to register the same mark on goods and services falling within a plurality of classes but a fee equaling the sum of the fees for filing an application in each class is required. The following international classification of goods and services has been adopted for convenience of administration. This classification does not limit or extend the applicant's rights.

GOODS

Class 1. Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

Class 2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colourants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and arts.

Class 3. Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.

Class 4. Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles, wicks.

Class 5. Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

Class 6. Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores.

Class 7. Machines and machine tools; motors (except for land vehicles); machine coupling and belting (except for land vehicles); agricultural implements; incubators for eggs.

Class 8. Hand tools and implements (hand operated); cutlery, forks and spoons; side arms; razors.

Class 9. Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking

(supervision), life-saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines and data processing equipment; fire-extinguishing apparatus.

Class 10. Surgical, medical, dental and veterinary apparatus and instruments, artifical limbs, eyes and teeth; orthopedic articles; suture materials.

Class 11. Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

Class 12. Vehicles; apparatus for locomotion by land, air or water.

Class 13. Firearms; ammunition and projectiles; explosives; fireworks.

Class 14. Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and chronometric instruments.

Class 15. Musical instruments.

Class 16. Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); playing cards; printers' type; printing blocks.

Class 17. Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.

Class 18. Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.

Class 19. Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

Class 20. Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.

Class 21. Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles for clean-

ing purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.

Class 22. Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.

Class 23. Yarns and threads, for textile use.

Class 24. Textiles and textile goods, not included in other classes; bed and table covers.

Class 25. Clothing, footwear, headgear.

Class 26. Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.

Class 27. Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).

Class 28. Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.

Class 29. Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams; eggs, milk and milk products; edible oils and fats; salad dressings; preserves.

Class 30. Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (except salad dressings); spices; ice.

Class 31. Agricultural, horticultural and forestry products and grains not included in other classes; living animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt.

Class 32. Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.

Class 33. Alcoholic beverages (except beers).

Class 34. Tobacco; smokers' articles; matches.

Services

Class 35. Advertising and business.

Class 36. Insurance and financial.

Class 37. Construction and repair.

Class 38. Communication.

Class 39. Transportation and storage.

Class 40. Material treatment.

Class 41. Education and entertainment.

Class 42. Miscellaneous.

Note: In the Trademark Search Library the prior U.S. classification numbers appear on registrations in addition to the international classification numbers.

Schedule for Certification Marks. In the case of certification marks, all goods and services are classified in two classes as follows:

A. Goods.

B. Services.

Schedule for Collective Membership Marks. All collective membership marks are classified as follows:

200 Collective Membership.

Use by Related Company. If the mark sought to be registered is not in fact being used by the applicant but is being used by one or more related companies whose use inures to the benefit of the applicant under section 5 of the Trademark Act, such facts must be indicated in the application.

DRAWING

The drawing must be a substantially exact representation of the mark as actually used in connection with the goods or services. The drawing of a service mark may be dispensed with if the mark is not capable of representation by a drawing, such as a sound mark, but in such case the written application must contain an adequate description of the mark.

If the application is for registration only of a word, letter or numeral, or any combination thereof, not depicted in special form, the drawing may be the mark typed in capital letters on paper, otherwise complying with the requirements.

Paper and Ink. The drawing must be made upon pure white durable paper, the surface of which must be calendered and smooth. A good grade of bond paper is suitable. India ink alone must be used for pen drawings to secure perfectly black solid lines. The use of white pigment to cover lines is not acceptable.

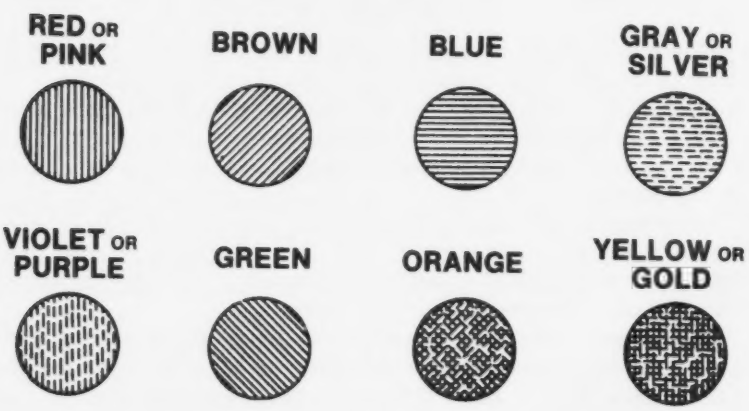
Size of Sheets and Margins. The size of the sheet on which a drawing is made must be 8 1/2 inches wide and 11 inches long. One of the shorter sides of the sheet should be regarded as its top. When the figure is longer than the width of the sheet, the sheet should be turned on its side with the top at the right. The size of the mark must be such as to leave a margin of at least one inch on the sides and bottom of the paper and at least one inch between it and the heading.

Heading. Across the top of the drawing, beginning one inch from the top edge and not exceeding one-fourth of the sheet, there must be placed a heading, listing in separate lines, applicant's name, applicant's post office address, the date of first use, the date of first use in Commerce, and the goods or services recited in the application (or typical items of the goods or services if a number are recited in the application). This heading may be typewritten.

Character of Lines. All drawings, except as otherwise provided, must be made with the pen or by a process which will give them satisfactory reproduction characteristics. Every line and letter, names included, must be black. This direction applies to all lines, however fine, and to shading. All lines must be clean, sharp, and solid, and they must not be too fine or crowded. Surface shading, when used, should be open. A photolithographic reproduction or printer's proof copy may be used if otherwise suitable. Photocopies are not acceptable.

Extraneous Matter. Extraneous matter must not appear upon the face of the drawing.

Linings for Color. Where color is a feature of a mark, the color or colors employed may be designated in the drawing by means of conventional linings as shown in the following color chart.



Transmission of Drawings. Drawings transmitted to the Patent and Trademark Office, other than typed drawings, should be sent flat, protected by a sheet of heavy binder's board, or should be rolled for transmission in a suitable mailing tube.

Informal Drawings. A drawing not in conformity with the foregoing requirements may be accepted for purpose of examination, but the drawing must be corrected or a new one furnished, as required, before the mark can be published or the application allowed. Substitute drawings will not be accepted unless they have been required by the Examiner or correction of the original drawing would require that the mark be substantially entirely redrawn.

TRADEMARK APPLICATION, PRINCIPAL REGISTER, WITH DECLARATION (Individual)	MARK *(identify the mark)*
	CLASS NO. *(if known)*

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

NAME OF APPLICANT, AND BUSINESS TRADE NAME, IF ANY

BUSINESS ADDRESS

RESIDENCE ADDRESS

CITIZENSHIP OF APPLICANT

The above identified applicant has adopted and is using the trademark shown in the accompanying drawing[1] for the following goods: _____

_____,

and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946.

The trademark was first used on the goods[2] on _____ *(date)*; was first used on the goods[2] in _____ *(type of commerce)* commerce[3] on _____ *(date)*; and is now in use in such commerce.

4

The mark is used by applying it to[5] _____

_____

and five specimens showing the mark as actually used are presented herewith.

6

_____ *(name of applicant)*.

being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom, declares that he/she believes himself/herself to be the owner of the trademark sought to be registered; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as may be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; the facts set forth in this application are true; and all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

_____ *(signature of applicant)*

_____ *(date)*

REPRESENTATION

If the applicant is not domiciled in the United States, a domestic representative must be designated. See Form 4.4.

If applicant wishes to furnish a power of attorney, see Form 4.2. An attorney at law is not required to furnish a power.

FOOTNOTES

1 If registration is sought for a word or numeral mark not depicted in any special form, the drawing may be the mark typed in capital letters on letter-size bond paper; otherwise, the drawing should be made with india ink on a good grade of bond paper or on bristol board.

2 If more than one item of goods in a class is set forth and the dates given for that class apply to only one of the items listed, insert the name of the item to which the dates apply.

3 Type of commerce should be specified as "interstate," "territorial," "foreign," or other type of commerce which may lawfully be regulated by Congress. Foreign applicants relying upon use must specify commerce which Congress may regulate, using wording such as commerce with the United States or commerce between the United States and a foreign country.

4 If the mark is other than a coined, arbitrary or fanciful mark, and the mark is believed to have acquired a secondary meaning, insert whichever of the following paragraphs is applicable:

a) The mark has become distinctive of applicant's goods as a result of substantially exclusive and continuous use in _____ commerce for the five years next preceding the date of filing of this application.
(type of commerce)

b) The mark has become distinctive of applicant's goods as evidenced by the showing submitted separately.

5 Insert the manner or method of using the mark with the goods, i.e., "the goods," "the containers for the goods," "displays associated with the goods," "tags or labels affixed to the goods," or other method which may be in use.

6 The required fee of $175.00 for each class must be submitted. (An application to register the same mark for goods and/or services in more than one class may be filed; however, goods and/or services and dates of use, by class, must be set out separately, and specimens and a fee for each class are required.)

REPRESENTATION

If the applicant is not domiciled in the United States, a domestic representative must be designated. See Form 4.4.

If applicant wishes to furnish a power of attorney, see Form 4.2. An attorney at law is not required to furnish a power.

FOOTNOTES

1 If pplicant is an association or other similar type of juristic entity, change "corporation" throughout to an appropri te designation.

2 If egistration is sought for a word or numeral mark not depicted in any special form, the drawing may be the mark typed in capital letters on letter-size bond paper; otherwise, the drawing should be made with india ink on a good grade of bond paper or on bristol board.

3 If more than one item of goods in a class is set forth and the dates given for that class apply to only one of the items listed, insert the name of the item to which the dates apply.

4 Type of commerce should be specified as "interstate," "territorial," "foreign," or other type of commerce which may lawfully be regulated by Congress. Foreign applicants relying upon use must specify commerce which Congress may regulate, using wording such as commerce with the United States or commerce between the United States and a foreign country.

5 If the mark is other than a coined, arbitrary or fanciful mark, and the mark is believed to have acquired a secondary meaning, insert whichever of the following paragraphs is applicable:

a) The mark has become distinctive of applicant's goods as a result of substantially exclusive and continuous use in _____ commerce for the five years next preceding the date of filing of this application.
(type of commerce)

b) The mark has become distinctive of applicant's goods as evidenced by the showing submitted separately.

6 Insert the manner or method of using the mark with the goods, i.e., "the goods," "the containers for the goods," "displays associated with the goods," "tags or labels affixed to the goods," or other method which may be in use.

7 The required fee of $175.00 for each class must be submitted. (An application to register the same mark for goods and/or services in more than one class may be filed; however, goods and/or services, and dates of use, by class, must be set out separately, and specimens and a fee for each class are required.)

TRADEMARK APPLICATION, PRINCIPAL REGISTER, WITH DECLARATION (Corporation)	MARK *(identify the mark)*
	CLASS NO. *(if known)*

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

NAME OF CORPORATION [1]

STATE OR COUNTRY OF INCORPORATION

BUSINESS ADDRESS OF CORPORATION

The above identified applicant has adopted and is using the trademark shown in the accompanying drawing[2] for the following goods: _____

_____ ,

and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946.

The trademark was first used on the goods[3] on _____ ; was first used on the goods[3] in
(date)

_____ commerce[4] on _____ ; and is now in use in
(type of commerce) *(date)*

such commerce.

[5]

The mark is used by applying it to[6] _____

_____

and five specimens showing the mark as actually used are presented herewith.

[7]

_____ ,
(name of officer of corporation)

being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom, declares that he/she is

_____
(official title)

of applicant corporation and is authorized to execute this instrument on behalf of said corporation; he/she believes said corporation to be the owner of the trademark sought to be registered; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as may be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; the facts set forth in this application are true; and all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

_____
(name of corporation)

By _____
(signature of officer of corporation, and official title of officer)

_____
(date)

TRADEMARK APPLICATION, PRINCIPAL REGISTER, WITH DECLARATION (Partnership)	MARK *(identify the mark)*
	CLASS NO. *(if known)*

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

NAME OF PARTNERSHIP

NAMES OF PARTNERS

BUSINESS ADDRESS OF PARTNERSHIP

CITIZENSHIP OF PARTNERS

The above identified applicant has adopted and is using the trademark shown in the accompanying drawing[1] for the following goods: _____

_____,

and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946.

The trademark was first used on the goods[2] on _____ ; was first used on the goods[2] in
(date)

_____ commerce[3] on _____ ; and is now in use in
(type of commerce) *(date)*
such commerce.

4

The mark is used by applying it to[5] _____

_____

and five specimens showing the mark as actually used are presented herewith.

6

_____.
(name of partner)

being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any registration resulting therefrom, declares that he/she is a partner of applicant partnership; he/she believes said partnership to be the owner of the trademark sought to be registered; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as may be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; the facts set forth in this application are true; and all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

_____
(signature of partner)

_____
(date)

If the applicant is not domiciled in the Unite

If applicant wishes to furnish a power of att
power.

1 If registration is sought for a word or n
mark typed in capital letters on letter-size bo
good grade of bond paper or on bristol boar

2 If more than one item of goods in a cla
items listed, insert the name of the item to w

3 Type of commerce should be specified
which may lawfully be regulated by Congres
Congress may regulate, using wording such a
States and a foreign country.

4 If the mark is other than a coined, arbi
secondary meaning, insert whichever of the f

a) The mark has become distinctive of

use in _____
(type of commerce)

of this application.

b) The mark has become distinctive of

5 Insert the manner or method of using t
goods," "displays associated with the goods,
in use.

6 The required fee of $175.00 for each cla
goods and/or services in more than one class
must be set out separately, and specimens an

REPRESENTATION

States, a domestic representative must be designated. See Form 4.4.

ney, see Form 4.2. An attorney at law is not required to furnish a

FOOTNOTES

meral mark not depicted in any special form, the drawing may be the
d paper; otherwise, the drawing should be made with india ink on a

is set forth and the dates given for that class apply to only one of the
ch the dates apply.

s "interstate," "territorial," "foreign," or other type of commerce
Foreign applicants relying upon use must specify commerce which
commerce with the United States or commerce between the United

ary or fanciful mark, and the mark is believed to have acquired a
lowing paragraphs is applicable:

pplicant's goods as a result of substantially exclusive and continuous

_____ commerce for the five years next preceding the date of filing

pplicant's goods as evidenced by the showing submitted separately.

e mark with the goods, i.e., "the goods," "the containers for the
"tags or labels affixed to the goods," or other method which may be

s must be submitted. (An application to register the same mark for
ay be filed; however, goods and/or services and dates of use, by class,
a fee for each class are required.)

SPECIMENS

Trademark Specimens. A trademark may be placed in any manner on the goods, or their containers or displays associated therewith, or on tags or labels attached to the goods. The five specimens shall be duplicates of the actually used labels, tags, containers, or displays or portions thereof, when made of suitable material and capable of being arranged flat and of a size not larger than 8 1/2 x 13". Third-dimensional or bulky material submitted as specimens cannot be accepted, and the submission of such material may result in a delay in receiving a filing date.

Trademark Facsimiles. When, due to the mode of applying or affixing the mark to the goods, or to the manner of using the mark on the goods, or to the nature of the mark, specimens as above stated cannot be furnished, five copies of a suitable photograph or other acceptable reproduction, not larger than 8 1/2 x 13" and clearly and legibly showing the mark and all matter used in connection therewith, shall be furnished.

Service Mark Specimens or Facsimiles. In the case of a service mark, specimens or facsimiles of the mark as used in the sale or advertising of the services must be furnished unless impossible from the nature of the mark or the manner in which it is used, in which event some other representation acceptable to the Commissioner must be submitted.

In the case of service marks not used in printed or written form, three recordings will be accepted.

Examination of Applications

Order of Examination. Applications will be docketed and examined in the order in which they are received. In the event it is found that the mark is not entitled to registration for any reason, the applicant will be notified and advised of the reasons therefor and of any formal requirements or objections.

Period of Response. The applicant has 6 months from the date of mailing of any action by the Patent and Trademark Office to respond thereto. Failure to respond within this period will result in abandonment of the application. Response may be made with or without amendment and must include such proper action by the applicant as the nature of the action and the condition of the case may require.

Reexamination or Reconsideration. After response by the applicant, the application will be reexamined or reconsidered. If on

further examination or consideration, registration is refused, appeal may be taken to the Trademark Trial and Appeal Board.

Principal Register Marks Subject to Opposition. If, on examination or reexamination of an application for registration on the Principal Register, it appears that the applicant is entitled to have his mark registered, it will be published in the Official Gazette and will be subject to opposition. Any person who believes he would be damaged by the registration of a mark on the Principal Register may oppose the same within 30 days after publication. Oppositions are transmitted to the Trademark Trial and Appeal Board and are governed by the rules applicable to adversary proceedings.

Interference. An interference proceeding between conficting marks in copending applications or in an application and registration will not be instituted except upon specific authorization of the Commissioner obtained upon petition by the applicant.

Registrations or applications to register on the Supplemental Register, registrations under the 1920 Act, and registrations of marks the right to the use of which has become incontestable are not subject to interference.

Allowance of Principal Register Marks. If no notice of opposition is filed and no confict found with other pending applications or registrations, the certificate of registration will issue in due course of business.

Allowance of Supplemental Register Marks. A Supplemental register mark, upon being found allowable, will be passed to registration, and the mark published in the Official Gazette when registered.

Service, Certification, and Collective Marks

The Trademark Act of 1946 also provides for the registration of service marks, certification marks, and collective marks.

Service Marks. The term "service mark" means a mark use in the sale or advertising of services to identify the services of one person and distinguish them from the services of others. Titles, character names and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of the sponsor.

Certification Marks. The term "certification mark" means a mark used upon or in connection with the products or services of one or more persons other than the owner of the mark to certify regional or other origin, material, mode of manufacture, quality, accuracy or other characteristics of such goods or services or that

the work or labor on the goods or services was performed by members of a union or other organization.

Collective Marks. The term "collective mark" means a trademark or service mark used by the members of a cooperative, an association, or other collective group or organization. Marks used to indicate membership in a union, an association, or other organization may be registered as Collective Membership Marks.

Registered Marks

Constructive Notice and Evidence of Ownership. Registration of a mark on the Principal Register of the 1946 Act, or under the Acts of 1881 or 1905, is constructive notice of the registrant's claim of ownership thereof, and prima facie evidence of the validity of the registration, registrant's ownership of the mark, and of registrant's exclusive right to use the mark in commerce in connection with the goods or services specified in the certificate, subject to any conditions and limitations stated therein. Such registrations give the right to sue in the United States courts and to prevent importation of goods bearing an infringing mark.

Registration on the Supplemental Register of the 1946 Act or under the Act of 1920 does not constitute constructive notice or prima facie evidence and does not give the right to prevent importation of goods bearing an infringing mark, but does give the right to sue in the United States courts.

Notice of Registration. A registrant should give notice that his mark is registered by displaying with the mark as used the words "Registered in U.S. Patent and Trademark Office," or "Reg. U.S. Pat. and Tm. Off.," or the letter R enclosed with a circle, thus ®. Use of such notice before the actual issuance of a certificate of registration for the mark is improper and may be the basis for refusal of registration.

PUBLICATION OF 1881 AND 1905 ACT REGISTRATIONS CLAIMING BENEFITS OF 1946 ACT (Sec. 12c)

Publication Requirements. A registrant of a mark registered under the provisions of the Acts of 1881 or 1905, who desires to secure the full benefits of the provisions of the Act of 1946, may at any time prior to the expiration of the period for which the registration was issued or renewed, upon the payment of the prescribed fee, file an affidavit or declaration setting forth those goods stated in the registration on which said mark is in use in commerce, speci-

fying the nature of such commerce, and stating that the registrant claims the benefits of the Trademark Act of 1946. Publication of a mark under the provisions of section 12 (c) does not extend the original term of the registration, and application for renewal must be made within the time specified in the statute. See Renewal (p. 15).

AFFIDAVIT OR DECLARATION OF USE (Sec. 8)

Cancellation for Failure to File Affidavit or Declaration During Sixth Year. Any registration issued under the provisions of the Act of 1946 and any 1881 or 1905 Act registration published to secure the full benefits of the 1946 Act, as described on page 13, will be cancelled at the end of 6 years following the date of registration or the date of publication unless within 1 year next preceding the expiration of such 6 years the registrant files in the Patent and Trademark Office an affidavit or declaration showing that said mark is in use in commerce or showing that its nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

A notice of this requirement is attached to registration certificates issued under the provisions of the 1946 Act and is included in the notices of publication under section 12 (c).

The affidavit or declaration is not required in the case of 1881 and 1905 Act registrations which have not been published under section 12 (c), or 1920 Act registrations, even though such registrations have been renewed under the provisions of section 9. Such affidavits may be returned.

Requirements for Affidavit or Declaration. The affidavit or declaration must:

(1) Be executed by the registrant after expiration of the 5-year period following the date of registration or publication under section 12 (c).

(2) Identify the certificate of registration by the registration number and date of registration; and

(3) State that the registered mark is in use in commerce, which may be lawfully regulated by Congress, specifying the nature of such commerce, and submit a specimen, facsimile or other evidence showing the mark as currently used, or recite facts to show that nonuse and is not due to any intention to abandon the mark.

(4) Include the required fee (see page 18).

AFFIDAVIT OR DECLARATION FOR INCONTESTABILITY (Sec. 15)

Incontestability Under Certain Conditions of Right to Use Mark. Under certain conditions, a mark registered on the Principal Register or a mark registered under the Acts of 1881 or 1905, and published under section 12 (c), may acquire an incontestable status, upon filing an affidavit or declaration conforming to the requirements indicated in the following paragraph. Marks which have acquired such status will not be subject to interference proceedings. Such marks, however, may be cancelled upon certain grounds specified by section 14 of the 1946 Act.

Requirements for Affidavit or Declaration for Incontestability. The affidavit or declaration provided by section 15 of the Act for acquiring incontestability for a mark registered on the Principal Register or a mark registered under the Act of 1881 or 1905 and published under section 12 (c) of the Act must:

(a) Be signed by the registrant;

(b) Identify the certificate of registration by the certificate number and date of registration;

(c) Recite the goods or services stated in the registration on or in connection with which the mark has been in continuous use in commerce for a period of 5 years subsequent to the date of registration or date of publication under section 12 (c) of the Act, and is still in use in commerce specifying the nature of such commerce;

(d) Specify that there has been no final decision adverse to registrant's claim of ownership for such mark for such goods or services, or to registrant's right to register the same or to keep the same on the register;

(e) Specify that there is no proceeding involving said rights pending in the Patent and Trademark Office or in a court and not finally disposed of;

(f) Be filed within 1 year after the expiration of any such 5-year period.

RENEWAL

Term of Registrations. Registrations issued under the Act of 1946 remain in force for 20 years from the date of registration and may be renewed for periods of 20 years from the expiring period unless previously cancelled or surrendered.

Renewal Requirements. A registration may be renewed provided the mark is in use in commerce at the time the application for renewal is filed. However, if the mark is not in use in commerce, the registration will be eligible for renewal provided the nonuse is due to special circumstances which excuse the nonuse and not due to any

intention to abandon the mark. Registrations issued under the Acts of 1881 and 1905 remain in force for their unexpired terms and may be renewed in the same manner as registrations under the Act of 1946.

Renewal of Registrations Issued Under Act of 1920. Registrations under the Act of 1920 which were issued on or before January 5, 1928, expired on January 5, 1948, and such registrations issued after January 5, 1928, expire 20 years fom the date of issue. Such registrations cannot be renewed unless renewal is required to support a foreign registration and in such case may be renewed on the Supplemental Register in the same manner as registrations under the Act of 1946.

Requirements of Application for Renewal. (a) The application for renewal must be verified or include a declaration by the registrant and set forth the goods or services recited in the registration on or in connection with which the mark is still in use in commerce, specifying the nature of such commerce. This statement must be executed not more than 6 months before the expiration of the registration or 3 months after and be accompanied by:

(1) A specimen or facsimile showing current use of the mark.

(2) The required fee, including the additional fee required in the case of a delayed application for renewal.

(b) The statement which is verified or supported by a declaration, the specimen or facsimile and the fee must be filed within the period prescribed for applying for renewal. If defective or insufficient, they cannot be completed after the period for applying for renewal has passed; if completed after the initial 6-month period has expired but before the expiration of the 3-month delay period, the application can be considered only as a delayed application for renewal.

(c) If the mark is not in use in commerce at the time of filing of the verified statement, facts must be recited to show that nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

The application for renewal must also include:

(1) If the applicant is not domiciled in the United States, the designation of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark.

(2) If the mark is registered under the Act of 1920, a showing which is verified or which includes a declaration by the applicant that renewal is required to support a foreign registration.

CORRECTION, DISCLAIMER, SURRENDER, ETC.

Provision is made in section 7 of the 1946 Act for the issuance, in case of a change of ownership of a registered mark, of a new certifi-

cate in the name of the assignee for the unexpired part of the original period; for the surrender of registrations, and for the amendment of registrations and disclaimer of registered marks, providing such amendment or disclaimer does not involve such changes as to alter materially the character of the mark. Mistakes in registrations incurred through the fault of the Office, or in good faith through fault of the applicant, may be corrected.

Request for such action must comply with rules 2.171-2.176 of the Trademark Rules of Practice. Except in the case of correction of an Office mistake, the request must be accompanied by the required fees. (See p. 18)

Cancellation. After a mark has been registered, any person who believes that he is or will be damaged by the registration may, upon payment of the required fee (see p. 18) and compliance with the provisions of the statute and rules, apply to the Commissioner of Patents and Trademarks to cancel the registration.

Assignment of Marks. A registered mark or a mark for which application to register has been filed may be assigned with the good will of the business or with that part of the good will of the business connected with the use of and symbolized by the mark. Assignments must be by instruments in writing duly executed. Acknowledgement is prima facie evidence of the execution of an assignment and when recorded in the Patent and Trademark Office the record is prima facie evidence of execution.

Registration in Foreign Countries

Owners of trademarks having business or prospective business in foreign countries who desire to protect their marks in such foreign countries should ascertain the nature of the trademark laws in those countries in order that they may take proper steps in time to protect their rights.

In many foreign countries a resident there may obtain a registration of a trademark without having actually used it in trade, and such a registration may be used to prevent the importation into that country of goods bearing the mark.

To effect registration in many foreign countries, it is essential that registration be effective in the United States. Having secured registration domestically the owner frequently may secure registration in foreign countries before actually using the mark there. Duration of certificates of registration in foreign countries varies in accordance with the domestic laws of such countries.

General Information

Correspondence With the Patent and Trademark Office. All letters should be addressed to "The Commissioner of Patents and Trademarks, Washington, D.C., 20231." When appropriate, a letter may be marked for the attention of a particular officer or individual.

Letters of Inquiry. A separate letter should, in every instance, be written in relation to each distinct subject of inquiry.

The Patent and Trademark Office cannot undertake to respond to inquiries whether certain trademarks have been registered, or, if so, to whom, or for what goods; nor can it give legal advice as to the registrability of a specified mark or the nature and extent of protection afforded by the law, except as questions may arise in connection with pending applications. Information of a general nature may be furnished either by answering the inquiry or by providing or calling attention to an appropriate publication.

Identification of Pending Applications and Registrations. A letter relating to a pending application should identify it by the name of the applicant and serial number and filing date of the application. A letter relating to a registered trademark should identify it by the name of the registrant and by the number and date of the certificate.

Business Must be Conducted With Decorum and Courtesy. Applicants and their representatives will be required to conduct their business with the Patent and Trademark Office with decorum and courtesy. Papers presented in violation of this requirement will be submitted to the Commissioner and will be returned by his direct order.

Fees and Payment of Money. The following is a partial schedule of fees and charges to be paid to the Patent and Trademark Office in connection with trademark matters.

(1)	Application to register in each class	$175.00
(2)	Renewal application, in each class	300.00
(3)	Renewal application filed after date of expiration, an additional	100.00
(4)	Notice of claim of benefits for registration under prior act (sec. 12 [c])	100.00
(5)	Appeal to Trademark Trial and Appeal Board from refusal of registration by an Examiner in each class	100.00
(6)	Opposition or cancellation filing fee in each class	200.00
(7)	Amendment of Registration, correction of applicant's mistake, disclaimer, or new certificate in name of assignee (sec. 7)	100.00
(8)	Printed copy of registration only, $1.00; copy with data as of date of mailing relating to renewal, cancellation, 12 (c)	

	publication, and affidavits under sections 8 and 15	
	Omitting title	6.50
	Showing title	6.50
(9)	Certification or trademark records, per certificate	3.50
(10)	Photocopies or other reproduction of records, drawings, or printed material, per page of material copied	.30
(11)	For recording every assignment, agreement, or other paper relating to the property in a registration or application	100.00
(12)	For indexing each additional item (where the recorded document relates to more than one application or registration)	20.00
(13)	Affidavit under sec. 8, for each class	100.00
(14)	Affidavit under sec. 15, for each class	100.00
(15)	Combined affidavit under secs. 8 and 15, per class	200.00
(16)	Petitions to the Commissioner	100.00

Method of Payment. All payments of money for Patent and Trademark Office fees should be made in United States specie, Treasury Notes, national bank notes, post office money orders, or certified checks. If sent in any other form, such as a personal or business check, the Office may cancel credit if payment cannot be collected. Money orders and certified checks must be made payable to the Commissioner of Patents and Trademarks. Remittances made from foreign countries must be payable and immediately negotiable in the United States for the full amount of the fee required. Money sent by mail to Patent and Trademark Office will be at the risk of the sender; letters containing money should be registered.

Refunds. Money paid by actual mistake or in excess, such as a payment not required by law, will be refunded, but a mere change of purpose after payment of money, as when a party desires to withdraw his application for the registration of a mark or to withdraw an appeal, will not entitle a party to demand such a return. Amounts of $1.00 or less will not be retumed unless specifically demanded within a reasonable time, nor will the payer be notified of such amount.

RECORDS AND PUBLICATIONS OF TRE PATENT AND TRADEMARK OFFICE

Digest of Registered Marks. The digest of registered marks is maintained in the search library of Trademark Examining Operations and is open to the public. This digest comprises a set of the registered word marks arranged alphabetically and a set of registrations comprising symbols, birds, animals, etc, arranged according to the classification of the goods or services with which they are used. It is advisable to search this digest before adopting a trademark so as to avoid possible confict with previously registered marks. The Office has reference material on articles of commerce indicating their classification in the various classes of goods which have been established under the law (See p. 6.)

Printed Copies of Registrations. Printed copies of registrations will be furnished by the Patent and Trademark Office upon payment of the fee therefor. These copies may be merely copies of the registration as issued or status copy showing all effective actions taken on the registrations, including renewal affidavits, publication under section 12 (c), cancellation, etc.

Registration Files. After a mark has been registered or published for opposition, the file of the application and all proceedings relating thereto are available for public inspection and copies of the papers may be furnished upon paying the fee therefor.

Pending Applications. A digest of pending applications with a reproduction of the mark, the name and address of the applicant, the goods or services with which the mark is used, the dates of first use, and the serial number of the application is maintained for public inspection. Access to the file of a particular pending trademark application will be permitted prior to publication upon written request. Decisions of the Trademark Trial and Appeal Board in applications and proceedings relating thereto are published or available for inspection or publication.

Assignment Records. The assignment records of the Patent and Trademark Office are open to public inspection and copies of any recorded assignment may be obtained upon payment of the fee therefor. An order for a copy of an assignment should give the liber (book) and page or the reel and fame of the record.

Official Gazette. The *Official Gazette of the Patent Office* is published weekly and the Trademark Section contains information relating to trademarks, including marks published for opposition, marks registered, amended, cancelled and renewed, and marks published under section 12 (c) of the 1946 Act.

Single copies and subscriptions of the *Official Gazette* are sold by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402. The trademark material is reprinted separately as the Trademark Section and may be purchased or subscribed to separately.

Annual Trademark Index. An annual index of registrants of trademarks is published and sold by the Superintendent of Documents.

Trademark Rules. A copy of the Patent and Trademark Office' trademark rules may be obtained by ordering the following publi cation from the Superintendent of Documents:

Title 37 of the Code of Federal Regulations, which includes patent and copyright rules as well as trademark rules (Aug. 1985 price, $9.00 in the U.S.).

Trademark Manual of Examining Procedure. This publication sold by the Superintendent of Documents gives detailed guidance concerning trademark procedures. It contains instructions both for the Office's trademark examining attorneys and for the public (May 1983 price, $24.00 in the U.S.).

Forms

Three forms are inserted for use by applicant. Applicant may select appropriate form which may be duplicated and submitted to the Patent and Trademark Office along with the fee and other requirements.

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PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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